

R277-552 received final approval by the Utah State Board of Education on November 1, 2018. R277-552 is published in the December 1, 2018 Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of January 9, 2019.

R277. Education, Administration.

R277-552. Charter School Timelines and Approval Processes.

R277-552-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities;

(c) Subsection 53G-6-504(5), which requires the Board to make rules regarding a charter school expansion or satellite campus;

(d) Sections 53G-5-304 through 53G-5-306, which require the Board to make a rule providing a timeline for the opening of a charter school;

(e) Section 53F-2-702, which directs the Board to distribute funds for charter school students directly to the charter school;

(f) the Charter School Expansion Act of 1998, 20 U.S.C. Sec. 8063, which directs the Board to submit specific information prior to a charter school's receipt of federal funds; and

(d) Subsection 53G-5-205(5), which requires the Board to make rules establishing minimum standards that a charter school authorizer is required to apply.

(2) The purpose of this rule is to establish procedures for timelines and approval processes for charter schools.

[R277-552-2. New Charter School Applicant Training:

~~—— (1) A charter school applicant that is seeking to have a new charter authorized shall attend:~~

~~—— (a) pre-application training;~~

~~—— (b) planning year training; and~~

~~—— (c) other training sessions designated by the proposed school's authorizer.~~

~~—— (2) An authorizer may work with the State Charter School Board to provide~~

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trainings required by this rule R277-552.]

R277-552-[3]2. Charter School Authorization Process.

(1) An individual or non-profit organization as described in Subection 53G-5-302(2)(b) may apply to open a charter school from any statutorily approved authorizer.

(2) An authorizer shall submit a process to the Board for approval of:

(a) a new charter school;

(b) a charter school expansion;

(c) a replication school; or

(d) a satellite school.

(3) An new authorizer shall submit a new charter school application process to the Board for approval at least six months prior to accepting applications for a new charter school.

(4)(a) The Board shall approve or deny an authorizer's application process within 65 days of receipt of the proposed process from an authorizer.

(b) If the Board denies an application process, the Superintendent shall provide a written explanation of the reasons for the denial to the applicant within 45 days.

(c) If an authorizer's application process is denied, the authorizer may submit a revised application process for approval at any time.

(5) An existing authorizer may not authorize a new charter school for the 2021-22 school year and beyond until the Board approves the authorizer's application process.

(6) An authorizer shall have an application and charter agreement, which shall include all elements required by Title 53G, Chapter 5, Part 3, Charter School Authorization.

(7) An authorizer shall maintain the [original] official charter agreement, which shall presumptively be the final, [official], and complete agreement between a school and the school's authorizer.

(8) An authorizer's review process for a new charter school shall include:

(a) a plan for pre-operational and other trainings;

(b) an evaluation of the school's governing board, including:

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(i) a review of the resumes of and background information of proposed governing board members; and

(ii) a capacity interview of the proposed governing board;

(c) an evaluation of the school's financial viability, including:

(i) a market analysis;

(ii) anticipated enrollment; and

(iii) anticipated and break even budgets;

(d) an evaluation of the school's academic program and academic standards by which the authorizer will hold the school accountable; and

(e) an evaluation of the school's proposed pre-operational plan, including implementation of:

(i) required policies;

(ii) student data systems;

(iii) reporting; and

(iv) financial management.

(9) An authorizer review process shall include contacting the school district in which a proposed charter school will be located and consideration of any feedback provided by the district.

(10) An authorizer shall design its approval process so that the authorizer notifies the Superintendent of an authorizer approval of a request identified in Subsection (2) no later than October 1, one fiscal year prior to the state fiscal year the charter school intends to serve students.

R277-552-[4]3. Timelines - Charter School Starting Date and Facilities.

(1) A charter school may receive state start-up funds if the charter school is approved as a new charter school by October 1, one fiscal year prior to the state fiscal year the charter school intends to serve students.

(2) Prior to receiving state start-up funds an authorizer shall certify in writing to the State Charter School Board that a charter school has:

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(a) completed all financial identifying documents;

(b) completed background checks for each governing board member; and

(c) executed a signed charter agreement, which includes academic goals.

(3) A charter school may receive state funds, including minimum school program funds, if the charter school authorizer certifies in writing to the Superintendent by June 30 prior to the school's first operational year that:

(a) the charter school meets the requirements of Subsection (2);

(b) the charter school's governing board has adopted all policies required by statute or board rule, including a draft special education policies and procedures manual;

(c) the charter school's governing board has adopted an annual calendar in an open meeting and has submitted the calendar to the Superintendent;

(d) the authorizer has received the charter school's facility contract as required by Subsection 53G-5-404(9);

~~[(e) the charter school's [actual] budgeted facility expenditures do not exceed a percentage, approved by the Superintendent, of the charter school's budget [approved by the Superintendent];]~~

~~[(f)](e) the charter school has met the requirements of Subsections (5) and (6) and that the school's building is on track to be completed prior to occupancy;~~

~~[(g)](f)(i) the charter school has hired an executive director and a business administrator; or~~

(ii)(A) the charter school governing board has designated an executive director ~~[and]~~ or business administrator employed by a third party; and

(B) the charter school governing board has established policies ~~[in accordance with Rule R277-417 for]~~ regarding the charter school's supervision of the charter school's third party contractors ~~[employees];~~

~~[(h)](g) the charter school's enrollment is on track to be sufficient to meet the school's~~

financial obligations and implement the charter school agreement;

~~[(i)](h) the charter school has an approved student data system that has successfully~~

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communicated with UTREx, including meeting the compatibility requirements of Subsection R277-484-5(3); and

~~[(j)]~~(i) the charter school has a functional accounting system.

(4) An authorizer shall:

(a) create a process to verify the requirements in Subsection (3);

(b) maintain documentation of Subsection (4)(a); and

(c) provide the documentation described in Subsection (4)(b) to the Superintendent upon request.

(5) A charter school shall begin construction on a new or existing facility requiring major renovation, such as requiring a project number consistent with Rule R277-471, no later than January 1 of the year the charter school is scheduled to open.

(6) A charter school that intends to occupy a facility requiring only minimal renovation, such as renovation not requiring a project number according to Rule R277-471, shall enter into a written agreement no later than May 1 of the calendar year the charter school is scheduled to open.

(7) If a charter school fails to meet the requirements of this section within 36 months of approval, the approval of the charter school shall expire.

R277-552-[5]4. Charter Amendment Requests.

(1) An authorizer shall have a policy establishing a process for consideration of proposed amendments to a school's charter agreement.

(2) An authorizer's timeline for consideration of an amendment to a charter agreement may not conflict with any funding deadline established in Board rule.

R277-552-[6]5. Charter School Expansion Requests.

(1) A charter school may request approval for an expansion if:

(a) the charter school satisfies the requirements of federal and state law, regulations, rule, and the charter agreement; and

(b)(i) the charter school's charter agreement provides for an expansion

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consistent with the request; or

(ii) the charter school governing board has submitted a formal amendment request to the charter school authorizer consistent with the charter school authorizer's requirements.

(2) If the charter school authorizer approves a charter school expansion, the expansion shall be approved before October 1 of the state fiscal year prior to the school's intended expansion date.

(3) A charter school authorizer that authorizes an expansion of the authorizer's charter school shall provide the total number of students by grade that the charter school is authorized to enroll to the Superintendent on or before October 1 of the state fiscal year prior to the charter school's intended expansion date.

(4) When considering whether to approve a charter school's request for an expansion, an authorizer shall consider the following:

(a) the amount of time the charter school has operated successfully meeting the terms of its charter agreement~~[- giving preference to schools that have been successfully operated for three years or more];~~

(b) ~~[the]~~two years of academic performance data of students at the charter school~~[- giving preference to charter schools with students who are performing on standardized assessments at or above]~~, including whether the charter school is performing at or above:

(i) the academic goals established in the charter school's charter agreement; and

(ii) the average academic performance of other district and charter schools in the area, or for schools targeting specific populations, schools with similar demographics;

(c) the financial position of the charter school, as evidenced by the charter school's financial records, including the charter school's:

(i) most recent annual financial report (AFR);

(ii) annual program report (APR); and

(iii) audited financial statement;

(d) whether the charter school has a waiting list for enrollment;

(e) adequacy of the charter school's facility;

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(f) any student safety issues; and

(g) ability to meet state and federal reporting requirements, including whether the charter school has regularly met Board reporting deadlines.

(6) A charter school requesting an expansion shall provide the information described in Subsection (5) to the authorizer with the charter school's request for expansion.

R277-552-[7]6. Requests for a New Replication or Satellite School for an Approved Charter School.

(1) A charter school and all of the charter school's replication or satellite schools are a single LEA for purposes of public school funding and reporting.

(2) An existing charter school may submit a request to the charter school's authorizer for a replication or satellite charter school if:

(a) the charter school satisfies requirements of federal and state law, regulations, and rule;

(b) the charter school has operated successfully for at least three years meeting the terms of its charter agreement;

(c) the students at the charter school are performing on standardized assessments at or above the academic goals in the charter agreement, or, if there are no such goals in the charter agreement, are performing at or above surrounding schools;

(d) the charter school has adequate qualified administrators and staff to meet the needs of the proposed student population at the replication or satellite charter school;

(e) the charter school provides any additional information or documentation requested by the charter school authorizer; and

(f) the charter school is in good standing with its authorizer.

(3) As part of the application process, the authorizer shall review the charter school's:

(a) educational services, assessment, and curriculum;

(b) governing board's capacity to manage multiple campuses; and

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(c) the school's financial viability.

(4) A replication or satellite charter school that will receive School LAND Trust funds shall have a charter trust land council and satisfy all requirements for charter trust land councils consistent with Rule R277-477.

(5) A replication or satellite charter school may receive state funding if the authorizer approves the replication or satellite charter school by October 1 of the state fiscal year prior to the year the school intends to serve students.

(6) If a replication or satellite charter school does not open within 36 months of approval, the approval shall expire.

(7) A charter school authorizer that authorizes a replication or satellite charter school shall provide the total number of students by grade that the charter school is authorized to enroll to the Superintendent on or before October 1 of the state fiscal year prior to the charter school's intended expansion date.

R277-552-[8]7. Procedures and Timelines to Change Charter School Authorizers.

(1) A charter school may transfer to another charter school authorizer.

(2) A charter school shall submit an application to the new charter school authorizer at least 90 days prior to the proposed transfer.

(3) The charter school authorizer transfer application shall include:

(a) current governing board members;

(b) financial records that demonstrate the charter school's financial position, including the following:

(i) most recent annual financial report (AFR);

(ii) annual project report (APR); and

(iii) audited financial statement;

(c) test scores, including all state required assessments;

(d) current employees and assignments;

(e) board minutes for the most recent 12 months; and

(f) affidavits, signed by all board members certifying:

(i) the charter school's compliance with all state and federal laws and regulations;

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- (ii) all information on the transfer application is complete and accurate;
- (iii) the charter school is current with all charter school governing board policies;
- (iv) the charter school is operating consistent with the charter school's charter agreement; and
- (v) there are no outstanding lawsuits or judgments or identifying outstanding lawsuits filed or judgments against the charter school.
- (4) The current authorizer of a charter school seeking to transfer charter school authorizers shall submit a position statement to the new charter school authorizer about:
 - (a) the charter school's status;
 - (b) compliance with the charter school authorizer requirements; and
 - (c) unresolved concerns.
- (5) A new charter school authorizer shall review an application for transferring a charter school authorizer for acceptance within 60 days of submission of a complete application, including all required documentation.
- (6) If a an authorizer accepts the transfer of a new charter school, the new authorizer shall notify the Superintendent within 30 days.

KEY: training, timelines, expansion, satellite

Date of Enactment or Last Substantive Amendment: 2018

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; ~~53A-1-401; 53A-1a-502.5; 53A-1a-504; 53A-1a-505; 53A-1a-515; 53A-1a-521; 53A-1a-513~~53E-3-401; 53G-5-205; 53F-2-702; 53G-6-503